



The SCA held that in any event Calvin failed to prove that MultiChoice had committed contempt of court. In December 2019 MultiChoice cancelled the agreements a second time based on new facts established after the September cancellations: fraud perpetrated by Calvin and its employees causing MultiChoice to suffer loss of some R2.25 million (the December cancellations). Calvin failed to establish that MultiChoice wilfully and mala fide had not complied with the interdict, and the contempt order should not have been issued.

The SCA held further that Calvin simply did not meet the requisites of s 18 of the Superior Courts Act 10 of 2013 for the execution of the contempt order. It did not prove exceptional circumstances or that it would suffer irreparable harm if the contempt order was not implemented, or that MultiChoice would not suffer irreparable harm if it was. This execution order likewise should not have been granted. Finally, Calvin was ordered to pay costs on an attorney and client scale, for three reasons. The first, Calvin had abused court process: to ensure its continued access to MultiChoice's I.T systems, well knowing that MultiChoice was entitled to cancel the agreements in accordance with their terms. Second, it had put MultiChoice to unnecessary trouble and expense in opposing the unmeritorious applications brought by Calvin. Third, the agreements provided that Calvin would be liable for costs on an attorney and client scale.